

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMERO TERRILE MOSES,

Plaintiff,

vs.

PATRICIA CARUSO, *et al*,

Defendants.

Case No. 08-12161

Anna Diggs Taylor
United States District Judge

Michael Hluchaniuk
United States Magistrate Judge

ORDER DENYING PLAINTIFF'S MOTION
FOR APPOINTMENT OF COUNSEL WITHOUT PREJUDICE

This matter is before the Court on plaintiff's motion for appointment of counsel. (Dkt. 8). Plaintiff, an inmate currently at the Saginaw Correctional Facility brings this action under 42 U.S.C. § 1983, claiming a violations of his rights under the United States Constitution. (Dkt. 1). Plaintiff alleges that defendants were deliberately indifference to his health and medical needs by failing to provide him with a smoke-free environment. *Id.* On August 15, 2008, this case was referred to the undersigned for all pretrial purposes by District Judge Anna Diggs Taylor. (Dkt. 9).

In support of his request for counsel, plaintiff states that the issues presented are factually complex, that is it difficult for him to investigate issues relating to his

suit, that he is indigent and has no legal training, that the large number of defendants makes this case legally complex, and that he has asked for a jury trial, the conduct of which is beyond his capabilities. (Dkt. 8).

Under 28 U.S.C. § 1915(e)(1), a federal court may request an attorney to represent an indigent plaintiff. *Reneer v. Sewell*, 975 F.2d 261 (6th Cir. 1992). Except in rare circumstances, it is the practice of this Court to consider the appointment of counsel in prisoner civil rights cases only where exceptional circumstances exist, or in certain cases only after a motion to dismiss or for summary judgment has been decided. In order to make the determination whether there are exceptional circumstances to appoint counsel, the Court considers the type of case involved, plaintiff's ability to represent himself, as well as the complexity of the case, and also whether the claims being presented are frivolous or have a small likelihood of success. *Reneer*, 975 F.2d at 261; *see also, Mars v. Hanberry*, 752 F.2d 254, 256 (6th Cir. 1995).

It appears that, from reading the complaint that plaintiff has an adequate understanding of the issues and matters involved in this case, and is able to articulate his claims and arguments in a reasonable fashion. It also appears that the issues raised in his complaint are straightforward and understandable and not of an unduly complex nature. Should dispositive motion(s) be decided in plaintiff's

favor, plaintiff may re-file his motion for the appointment of counsel.

IT IS HEREBY ORDERED that plaintiff's motion for appointment of counsel is hereby **DENIED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

The parties to this action may object to and seek review of this Order, but are required to file any objections within 10 days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2). A party may not thereafter assign as error any defect in this Order to which timely objection was not made. Fed.R.Civ.P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to Local Rule 72.1(d)(2), a copy of any objections is to be served on this Magistrate Judge.

Date: August 22, 2008

s/Michael Hluchaniuk
Michael Hluchaniuk
United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send electronic notification to the following: Michael R. Dean, and I hereby certify that I have mailed by United States Postal Service the foregoing pleading to the plaintiff, a non-ECF participant, at the following address: Jamero Moses, #231885, SAGINAW CORRECTIONAL FACILITY, 9625 Pierce Road, Freeland, MI 48623.

s/James P. Peltier
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